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CHANDIGARH ADMINISTRATION
HOME DEPARTMENT

Notification

The 13th February, 2025

No. LD-2025/1962.—In exercise of the powers conferred by sub-section (3) of Section 3 of the National Security Act, 1980, the Administrator, Union Territory, Chandigarh, hereby directs, the District Magistrate, Chandigarh, to make orders, directing any person to be detained under the said Act, with a view to preventing him/her from acting in any manner prejudicial to the security of the State or from acting in any manner prejudicial to the maintenance of public order or from acting in any manner prejudicial to maintenance of supplies and services essential to the community.

This Notification shall remain in force for a period of three months, with effect from 26.02.2025.

(By order of the Administrator)

RAJEEV VERMA, I.A.S.,
Chief Secretary,
Union Territory, Chandigarh

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CHANDIGARH ADMINISTRATION
LABOUR DEPARTMENT

NOTIFICATION

The 11th February, 2025

No. 494533 -HII(2)-2024/2354.—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL) dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. **22/2023** dated **08.01.2025** delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

KULDEEP SINGH S/O SH. JASWINDER SINGH R/O V.P.O. GARANGAN, TEHSIL KHARAR, DISTRICT MOHALI (PUNJAB). (WORKMAN)

AND

1. CHANDIGARH JUDICIAL ACADEMY, SECTOR 43, CHANDIGARH THROUGH ITS DIRECTOR.
2. CHECKMATE SERVIDES PVT. LTD., BRANCH OFFICE SCF 128, PHASE 3B2, S.A.S. NAGAR, MOHALI

2ND ADDRESS:-

M/S CHECKMATE SERVICE PVT. LTD., AMAN TOWERS, GF, 6,7,8,9, SUVAS COLONY, FATEHGUNJ, MAIN ROAD VADODRA (GUJRAT). (MANAGEMENT)

AWARD

1. Kuldip Singh, workman has presented industrial dispute under Section 2A(2) of the Industrial Disputes Act, 1947 (*here-in-after in short called 'ID Act'*).

2. Briefly stated the averments of claim statement are that the applicant-workman (*here-in-after 'workman'*) has been working as Security Guard since 01.01.2017 continuously and was in receipt of wages of ₹18,000/- per month. On 24.12.2021, the respondent (*here-in-after 'management'*) through message called the workman in his office and told him to sign the resignation without any sufficient reason. The workman flatly refused to sign the resignation letter. On 24.12.2022, the management did not allow the workman to join his services. The management company terminated the services of the workman without any show cause notice and intimated that his services are no longer required. The workman again requested the management for reporting on duty but the management illegally and forcibly stopped the entry of workman and thus illegally & arbitrarily terminated the services of the workman w.e.f. 24.12.2021. The workman again approached the management for reporting for duty but the management intimated the workman that his services have already been terminated by the management and the workman was not allowed to report for his duty. During entire tenure of service, the work & performance of the workman has been to the satisfaction of his superior/seniors. The workman performed his duties with dedication. The post on which workman was working is permanent / regular. The workman has worked more than 240 days continuously with the management without any break. The management has indulged in unfair labour practice. The workman has been forced to remain unemployed and is continuing to be out of employment due to high-headedness of management-employer. The management has retained the juniors and new appointment has been made against

the post on which the workman was working. The act of the management in terminating the services of the workman is prima facie, illegal, arbitrary and unjustified. As such, it amounts to illegal termination. Prayer is made that direction may be issued to the opposite party to reinstate the workman with continuity of service along with full back wages and all consequential benefits on the same post and the same terms and conditions with seniority.

3. On notice, management No.1 (Chandigarh Judicial Academy) contested the claim statement by filing written statement on 14.11.2023, wherein preliminary objections are raised to the effect that vide contract dated 28.02.2022 M/s Checkmate Service Private Limited, North-West Regional Office at SCR 128, Phase 3B2, SAS Nagar (*here-in 'management No.2'*) entered into contract with Chandigarh Judicial Academy (*here-in 'management No.1'*) for providing security services in the Academy. The workman was deputed to work as a Security Guard in the Academy w.e.f. 16.05.2017 to 23.12.2021 by the contractor management No.2. The workman was neither the employee nor deputed by the management No.1 during the aforesaid period. Even the attendance of the workman was marked by the Security Supervisor of management No.2. Besides, grant of leave and payment of salary was made by the service provider. Further clause 18 of the agreement dated 28.02.2022 provides that it shall be the sole responsibility and liability of M/s Checkmate Service Private Limited. Management No.2 to defend any action or infringement of any statutory provision or to bear the cost of defending such actions. This show that Chandigarh Judicial Academy - management No.1 has wrongly been impleaded as management. Therefore, the Chandigarh Judicial Academy - management No.1 is liable to be deleted from the array of parties.

4. Further in para wise reply, it is admitted to the extent that workman was working as Security Guard in Chandigarh Judicial Academy. It is stated that workman was working under the supervision & control of M/s Checkmate Security Services Pvt. Ltd. - management No.2. It is denied as wrong that the workman was working at Chandigarh Judicial Academy w.e.f. 01.01.2017. It is stated that the workman was deputed in the Chandigarh Judicial Academy - management No.1 by the management No.2 w.e.f. 16.05.2017 to 23.12.2021. Rest of the averments of the claim statement are denied for want of knowledge being not relating to the answering management No.1. Prayer is made that name of answering management No.1 may be deleted from the array of parties and claim statement may be dismissed with cost.

5. M/s Checkmate Services Private Limited - management No.2 contested the claim statement by filing separate written statement dated 29.05.2023 (filed on 30.05.2023) wherein it is admitted that workman has been working as Security Guard and was in the receipt of wages of ₹ 18,000/- per month. It is stated that workman joined on 01.05.2017. It is stated that services of the workman are not terminated. From 24.12.2021, the workman is absenting from duty, on one excuse or other and not complying to the company's instructions. The workman is himself away from duty and not receiving or acting upon the instructions of the company, therefore, cannot claim that he is idle. Earlier workman was doing job @ ₹ 18,000/- for 8 hours and cannot be allowed to join the same service, as the management No.2 is into security services and cannot put their client to security or safety risk as the workman had stopped coming to perform his duty on immediate basis another person had to be put on job. As request putforth by the workman to join the same service may be considered as and when the said position is vacant and their client approves the same. The management-company had not ended the services of the workman and offered him services at other location with transfer order which the workman is denying to accept. In his rejoinder workman is claiming that no communication has been received by him. It is further stated that workman had refused to accept the movement order dated 23.12.2021, thus, the same was put on the notice board and registered post sent to the workman was denied by him and

same was returned and received back with the Mohali Office of management No.2 on 01.01.2022 with the postal endorsement of 'refusal'. It is wrong to say that "*No written communication was ever sent to the workman by the management.*" and also stating workman never absented himself from the job is a false claim. Prayer is made to settle the case merits and suitable action may be taken by the Authorities in this regard.

6. Replication not filed. From the pleadings of the parties, following issues were framed vide order dated 12.12.2023 :-

1. Whether the termination of the services of workman is illegal, if so, to what effect and what relief he is entitled to ? OPW
2. Whether the claim statement is bad for mis-joinder of party ? OPM (management No.1)
3. Whether there is no relationship of employer & employee between the management No.1 and workman ? OPM (management No.1)
4. Relief.

7. In evidence, the workman Kuldeep Singh examined himself as AW1 and tendered his affidavit Exhibit 'AW1/A'. On 01.07.2024 Learned Representative for the workman closed evidence in affirmative.

8. On the other hand, management No.1 examined MW1 Hardev Singh - Office Executive, Chandigarh Judicial Academy, who tendered his affidavit Exhibit 'MW1/A' along with copies of documents Exhibit 'MW1/1' and Exhibit 'MW1/2'.

Exhibit 'MW1/1' is copy of agreement dated 12.03.2024 between Chandigarh Judicial Academy and M/s Innovision Limited.

Exhibit 'MW1/2' is copy of agreement dated 28.02.2024 between Chandigarh Judicial Academy and M/s Checkmate Services Limited.

9. On 19.09.2024 Learned Representative for the management No.1 (PA-cum-Presenting Officer) closed evidence.

10. Management No.2 examined MW2 Balinderpal Singh - Deputy General Manager (HR) of M/s Checkmate Services Private Limited, Mohali, who tendered his affidavit Exhibit 'MW2/A' along with copies of documents Exhibit 'MW2/1' to Exhibit 'MW2/4' and Mark 'MX'.

Exhibit 'MW2/1' is copy of board resolution dated 27.10.2020 in favour Balinderpal Singh.

Exhibit 'MW2/2' is copy of movement order dated 23.12.2021 sent by Checkmate Services Pvt. Ltd. to Kuldeep Singh through registered post.

Exhibit 'MW2/3' is copy of postal receipt dated 30.12.2021.

Exhibit 'MW2/4' is original envelop of registered post with remarks 'refusal to accept'.

Mark 'MX' is copy of agreement dated 01.03.2021 between Chandigarh Judicial Academy and M/s Checkmate Services Pvt. Ltd. for the period 01.03.2021 to 28.02.2022.

11. It is pertinent to mention here that during cross-examination of workman / AW1 management No.2 put documents Exhibit 'M1' to Exhibit 'M5'.

Exhibit 'M1' is copy of resume of workman Kuldeep Singh.

Exhibit 'M2' is copy of character certificate dated 02.03.2017 relating to workman Kuldeep Singh issued by Sarpanch, Gram Panchayat, Village Garangen, Tehsil Kharar, District Mohali.

Exhibit 'M3' is application for employment submitted by workman Kuldeep Singh.

Exhibit 'M4' is copy of medical fitness certificate dated 11.05.2017 of workman Kuldeep Singh issued by S.M.O., Nandpur Kalod, Fatehgarh Sahib.

Exhibit 'M5' is copy of training certificate dated 09.03.2017 of Kuldeep Singh issued by Orion School of Security and Intelligence Management on completion of prescribed training for engaging or employment as Private Security Guard from 09.01.2017 to 04.03.2017.

12. AW1 in his cross-examination conducted by management No.2 brought on record the attested copy of his statement of account for the period w.e.f. 01.06.2022 to 30.10.2023 of account No.0000000031409100230 maintained with State Bank of India vide Exhibit 'M4'. Since Exhibit 'M4' is numbered twice, therefore, in order to avoid any ambiguity above statement of account is renumbered as Exhibit 'M4/X'.

13. On 20.11.2024, Shri Balinderpal Singh - Deputy General Manager (HR) closed oral evidence on behalf of management No.2. On 06.01.2025 Learned Representative for management No.2 closed documentary evidence.

14. I have heard the arguments of Learned Representatives for the parties and perused the judicial file. My issue-wise finding are as below :-

Issues No. 1 to 3 :

15. All these issues are taken up together being inter-connected and in order to avoid repetition of discussion.

16. Onus to prove issue No.1 is on the workman and onus to prove issue No.2 & 3 is on the management No.1.

17. In order to prove the claim, Learned Representative for the workman referred the testimony of AW1/workman Kuldeep Singh who vide his affidavit Exhibit 'AW1/A' deposed the averments of claim statement in toto, which are not reproduced here for sake of brevity.

18. To discharge the onus of issues No.2 & 3, Learned Representative for the management No.1 referred the testimony of MW1 Hardev Singh, who vide his affidavit Exhibit 'MW1/A' deposed that he is working as Office Executive in the Chandigarh Judicial Academy and looking after the Protocol Work, maintenance works and supervision of works/duties rendered by Housekeeping & security staff etc. Earlier M/s Checkmate Services Private Limited, North West Regional Office at SCR 128, Phase 3B2, S.A.S Nagar / respondent No.2 (*here-in 'management No.2'*) was providing Security Services in the academy from February, 2010 to 15.03.2024 (extended yearly) and now M/s Innovision Limited is providing Security Services in the Academy w.e.f. 16.03.2024 to till date. MW1 further deposed that Sh. Kuldeep Singh / applicant (*here-in 'workman'*) was deputed to work as Security Guard in the Chandigarh Judicial Academy w.e.f. 16.05.2017 to 23.12.2021 by management No.2. The workman was not the employee of the Chandigarh Judicial Academy. Even the attendance of workman was marked by the Security Supervisors of management No.2 and grant of

leave and payment of salary was also made by the management No.2. Chandigarh Judicial Academy has not ever terminated the services of workman Kuldeep Singh. Rather, it is the duty and responsibility of management No.2 to provide 03 Nos. Security Supervisors and 18 Nos. of Security Guards to the respondent No.1 (*here-in 'management No.1'*) as per security services agreement executed between management No.1 & 2 respectively. MW1 further deposed that Clause 18 of the security services agreement dated 28.02.2022 provides that it shall be sole responsibility and liability of M/s Checkmate Services Pvt. Ltd. / management No.2 to defend any action or infringement of any statutory provision and to bear the cost of defending. MW1 supported his oral version with documents Exhibit 'MW1/1' and Exhibit 'MW1/2'.

19. To controvert the workman's claim, Learned Representative for management No.2 referred the testimony of MW1 Balinderpal Singh, who vide his affidavit Exhibit 'MW2/A' deposed the entire contents of the written statement, which are not reproduced here to avoid repetition. MW2 supported his oral version with documents Exhibit 'MW2/1' to Exhibit 'MW2/3' and Mark 'MX'.

20. From the oral as well as documentary evidence led by the parties, it comes out that the workman in the claim statement and his affidavit Exhibit 'AW1/A' alleged that he has been working as Security Guard continuously since 01.01.2017 and was in receipt of monthly wages of ₹ 18,000/-. It is further alleged that on 24.12.2021 the management telephonically informed him to sign resignation without any sufficient reasons, to which he refused. Thereafter, on 24.12.2022 the management did not allow him to join duty and intimated that his services are no longer required. In the present case, the workman has impleaded Chandigarh Judicial Academy as management No.1 and M/s Checkmate Service Private Limited as management No.2. But in the present entire claim statement and affidavit Exhibit 'AW1/A', the workman has not specifically mentioned whether he was appointed by management No.1 or management No.2, whether his services were verbally terminated by management No.1 or management No.2. Thus, the pleadings are vague. However, from the pleadings of written filed by management No.1 & 2 accompanied with the cross-examination of AW1 and evidence led by management No.1 & 2, the inference can be drawn as to who is the actual employer of the workman and who out of management No.1 & 2 had control over the employment of the workman. Management No.1 in the written statement and MW1 Hardev Singh in his affidavit Exhibit 'MW1/A' denied the relationship of employer-employer between the management No.1 & workman. On the other hand, management No.2 in its written statement admitted that the workman was appointed by contractor - M/s Checkmate Services Private Limited and was deployed as an outsource employee with the management No.1 - Chandigarh Judicial Academy as a Security Guard. Management No.2 alleged that workman remained in its service for the period w.e.f. 01.05.2017 to 23.12.2021 and workman absented from duty w.e.f. 24.12.2021. AW1 when put to cross-examination by management No.2 stated that he has seen his original resume as Security Guard. The same is not filled in by him in his handwriting. AW1 voluntarily stated that same was filled by Sh. Bhag Singh - Field Officer. He identify his signatures in the column of signature of individual against dated 11.05.2017, copy of the same is Exhibit 'M1'. AW1 admitted as correct that he had submitted his character certificate issued on 02.03.2017 by Sarpanch, Gram Panchayat, Village Garangan, Tehsil Kharar, District Mohali, with his seal and signature and copy of the same is Exhibit 'M2'. AW1 further stated that he identifies his signature as original application for employment dated 12.05.2017 and copy of the same is Exhibit 'M3'. AW1 further stated that he has seen his original medical fitness certificate dated 11.05.2017 issued by SMO, Anandpur Kalaur, District Fatehgarh Sahib and copy of the same is Exhibit 'M4'. AW1 further stated that he had also been provided training certificate dated 05.03.2017 issued by authorised signatory of Orion School of Security & Intelligence Management (OSSIM) and copy of the same is Exhibit 'M5'.

21. To my opinion from Exhibit 'M5', it is duly established that for the period w.e.f. 09.01.2017 to 04.03.2017 workman was undergoing training in OSSIM. Thus, there is no question of joining duty as Security Guard during this period with Chandigarh Judicial Academy. From documents Exhibit 'M1' to

Exhibit 'M4', it is duly established that workman was deployed as an outsource employee by contractor - management No.2 with Chandigarh Judicial Academy - management No.1 from the month of May, 2017. All the necessary formalities of joining are fulfilled by the workman in May, 2017 i.e. resume Exhibit 'M1', application for employment / Exhibit 'M3', medical fitness certificate / Exhibit 'M4'. AW1 when put to cross-examination by management No.1 stated that he had applied for the post of Security Guard directly in the office of Checkmate Services i.e. management No.2. His leave record, attendance record and wage record was maintained by management No.2. He was paid salary by management No.2 / Checkmate Security - contractor and his PF was also deducted from salary by the said contractor. AW1 in his cross-examination further admitted as correct that his services were not terminated by the Chandigarh Judicial Academy. He was not issued any letter of termination of services by the Chandigarh Judicial Academy. He had performed his duty as a Security Guard with M/s Checkmate Services w.e.f. 01.01.2017 to 23.12.2021. Besides, MW2 Balinder Singh, when put to cross-examination by management No.1 admitted as correct that Chandigarh Judicial Academy has allotted contract of providing service to M/s Checkmate Security Services Pvt. Ltd. for the period w.e.f. February, 2010 for one year which was further extended from time to time up to 15.03.2024. MW2 admitted as correct that workman Kuldip Singh was issued initial appointment letter by M/s Checkmate Security Services Pvt. Ltd. MW2 further stated that during the service period of the workman with M/s Checkmate Security Services Pvt. Ltd., the record of attendance, leave and wages relating to the workman was maintained by M/s Checkmate Security Services Private Limited. From the version of AW1 and MW2 referred above, it is duly proved into evidence that there was no direct relationship of employer & employee between the management No.1 & the workman and the management No.2 - contractor is the employer of the workman. The contractor - management No.2 had direct control and supervision on the employment of the workman. The workman was deployed by the contractor - management No.2 as an outsource employer in Chandigarh Judicial Academy - management No.1, thus, management No.1 is a necessary party being principal employer.

22. As far as termination of services of the workman is concerned, the contention raised by Learned Representative for management No.1 that it's service contract with management No.2 ended by efflux of time stand proved from cross-examination of MW2 conducted by management No.1, wherein MW2 admitted as correct that Chandigarh Judicial Academy has allotted contract of providing service to M/s Checkmate Security Services Pvt. Ltd. for the period w.e.f. February, 2010 for one year which was further extended from time to time up to 15.03.2024. The contract of Chandigarh Judicial Academy with M/s Checkmate Security Services Pvt. Ltd. ended by efflux of time on 15.03.2024. MW2 admitted as correct that thereafter Chandigarh Judicial Academy allotted further contract to M/s Innovision Ltd. w.e.f. 16.03.2024. The fact that further contract w.e.f. 16.03.2024 was allotted by Chandigarh Judicial Academy to contractor M/s Innovision Ltd., stands proved from agreement dated 12.03.2024 between Chandigarh Judicial Academy and M/s Innovision Ltd. / Exhibit 'MW1/1' which commences from 16.03.2024 up to 15.03.2025.

23. Learned Representative for the workman argued that the contractor terminated the services of the workman by verbal order w.e.f. 24.12.2021 without any reason and without compliance of mandate of Section 25F of the ID Act although the workman has completed continuous service of 240 days in 12 calendar months preceding termination. Thus, termination of services of the workman is illegal and workman is entitled for reinstatement with full back wages along with continuity of service and consequential benefits.

24. On the other hand, Learned Representative for the management No.2 argued that in fact workman started absents w.e.f. 24.12.2021 because after expiry of period of last contract with the management No.1, the management No.2 had issued movement order dated 23.12.2021 to the workman, to which the workman refused to accept. Then, the movement notice was displayed on the notice board and simultaneously it was issued to the workman through registered post and the same was received back undelivered as workman refused to receive the registered post.

25. To controvert the arguments of management No.2, Learned Representative for the workman argued that the movement order dated 23.12.2021 is ante-dated. The same was issued through registered post vide postal receipt dated 30.12.2021. In case the movement order was prepared on 23.12.2021, then why the same was kept pending till 30.12.2021.

26. To my opinion, the workman's argument that movement order dated 23.12.2021 being posted through registered post / Exhibit 'MW2/4' on 30.12.2021, is ante-dated is devoid of merits. The movement order dated 23.12.2021 was dispatched within a week. The movement order dated 23.12.2021 is proved to be served to the workman on 01.01.2022 though the workman refused to receive the same. The registered post / Exhibit 'MW2/4' bear postal endorsement dated 01.01.2022 "Refusal to accept". It would prove that workman deliberately avoided to receive the movement order and remained absent from duty. The facts & circumstances above would suggest that the workman has no intention to resume the duty at Ahmedabad, where he was transferred. There is no evidence of the workman showing that transfer was not genuine or it involves significant change in employment terms that are detrimental to him. Besides, the transfer is an ordinary and usual incident of service. Transfer are part & parcel of employment. As per Clause 15 of application for employment / Exhibit 'M3', the job of the workman was transferable. The translated version from Hindi to English language of Clause 15 of Exhibit 'M3' is as below :-

"15. You may transfer me at any place in India."

27. In view of the above clause 15 of application for employment / Exhibit 'M3' which is admittedly signed by the workman, from the initial date of joining the workman was aware that his job is transferrable to any location within India.

28. In view of the discussion made above, it is duly proved on record that workman has willfully abandoned the job and refused to join at the transferred location.

29. Accordingly, issue No.1 is proved against the workman in favour of managements No.1 & 2. Issue No.2 is proved in favour of the workman and against the management No.1. Issue No.3 is proved in favour of management No.1 and against the workman.

Relief :

30. In the view of foregoing finding on the issues No.1 & 3 above, this industrial dispute is declined. Appropriate Government be informed. File be consigned to the record room.

(Sd.) . . . ,

(JAGDEEP KAUR VIRK)

PRESIDING OFFICER,

Industrial Tribunal & Labour Court,

Union Territory, Chandigarh.

UID No. PB0152

Dated : 08.01.2025.

CHANDIGARH ADMINISTRATION
LABOUR DEPARTMENT

NOTIFICATION

The 11th February, 2025

No. 494632 -HII(2)-2024/2356.—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL) dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. **85/2017** dated **08.01.2025** delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

VIJAY KUMAR S/O SHRI RAM NATH R/O HOUSE NO. 2724, MOULI JAGRAN, U.T. CHANDIGARH. (WORKMAN)

AND

1. CITCO THE CHIEF, SECTOR 17, CHANDIGARH.
2. OSCAR SECURITY & FIRE SERVICES, # 44 SHOPPING COMPLEX, NETA SUBHASH CHANDER BOSE MARKET, MODEL TOWN, PANIPAT. (MANAGEMENT)

AWARD

1. Vijay Kumar, workman has presented industrial dispute under Section 2A(2) of the Industrial Disputes Act, 1947 (*here-in-after in short called 'ID Act'*).

2. Briefly stated the averments of claim statement are that the workman was appointed as Cook by the management No.1 in the year 2004. Management No.1 put his services under management No.2 to shield it's skin from the labour laws applicable to the worker and the last wages of the workman was ₹10,000/- per month and his Provident Fund (PF) No.556, Employees' State Insurance (ESI) Card No.1713271325 was issued to the workman by the management. The work & conduct of the workman has been satisfactorily and good from the date of joining till date. Management No.1 has terminated the services of the workman by verbal order w.e.f. 22.07.2016 and they have closed the gate for workman on 22.07.2016 and did not allow the workman to join his duty. Workman has completed more than 240 days service and his services were illegally terminated on 22.07.2016 by the management No.1 by verbal order. Junior to the workman have been retained in service. New person was appointed by the management No.1 in place of workman. No notice or notice pay / compensation has been paid to the workman before terminating his services on 22.07.2016. No inquiry has been conducted before terminating his services. The management has violated Section 25G, 25H & 25F of the ID Act. The workman reported the matter to the Labour Department on 31.08.2016. The Labour Inspector advised the workman to secure demand notice to the management. It is further averred that on 12.06.2016 workman was on his duty. At about 10:40 P.M. a guest came at the Transit Lodge, CITCO, who was staying at Lodge No.4, and under the influence of liquor the guest came to the workman and handed over the coupon for food. The workman requested him to come early before 10:00 P.M. as the timing is 10:00 P.M. The said guest left after taking his food and thereafter lodged a false complaint against the workman. On 19.07.2016, the said guest again came to get food in drunken condition. The workman asked him, what wrong he said on 12.06.2016 to him, on this the said guest became aggressive and started abusing the workman and threatened him that he will put the workman out from his services as he is having high links in the management as well as Haryana Police. It is further averred that workman raised a demand notice before the Assistant Labour Commissioner-cum-Conciliation Officer, Labour Department, Chandigarh. The management did not take the workman back in service. Conciliation proceedings failed. The Assistant Labour Commissioner sent the failure report to this Court. The management No.2 has not enlisted itself or sought permission from the Labour Department, U.T. Chandigarh for engaging labour for outsourcing.

Similarly, management No.1 has not taken licence to engage labour through outsource. Hence, workman is the worker of management No.1. The work of the workman is continuous in nature. The management are still working in the same field. Since the date of appointment till termination the workman kept working with the management No.1 without any break. Prayer is made that workman may be reinstated with continuity of service along with full back wages and consequential benefits.

3. On notice, management No.1 contested the claim statement by filing written statement dated 09.01.2018, under seal & signature of Chief General Manager, CITCO, wherein preliminary objections are raised on the ground that the present reference is not maintainable. The claim is false, frivolous, vexatious and without merits and has been filed with ulterior motive to take undue advantage and to harass the answering respondent (*here-in-after 'management'*) by abusing the process of law. The workman was neither appointed nor his services were terminated by the answering management. There was no administrative, economic and disciplinary control of the answering management over the workman at any point of time. As such, the workman was not a 'workman' employed by the answering management within the meaning of Section 2(s) of the ID Act. No relationship of employer-employee ever existed between the answering management and the workman. Answering management is in hotel industry, so it engages the contractors for the smooth running of it's business. Accordingly, the answering management allotted the work to management No.2 i.e. M/s Oscar Security & Fire Service, Panipat. After allotment of the workman, the management No.2 deputed the workman at it's unit, The Chef (A unit of CITCO), Sector 17, Bus Stand, Chandigarh as per the terms of agreement / contract between the answering management and the management No.2. The entire payment qua the work of the workman was made by the answering management to management No.2, as per agreement / contract. Since no appointment letter was ever issued by the answering management to the workman so question of termination of services does not arise. Besides, management No.2 is an independent organisation, which employed and deputed the workman at the unit of the answering management as per the settled terms of the agreement / contract. The management No.2 was having PF code and is also registered under the ESI scheme, which deduct the contribution of employees from their wages, as per rules. The answering management received a complaint from a guest against the workman on that complaint answering management got conducted fact finding inquiry through its General Manager and after that the answering management decided to seek replacement of the workman from the management No.2. The claim statement deserves to be dismissed on the above grounds.

4. Further on merits, similar stand is taken as taken in the preliminary objections. The incident dated 12.06.2016 alleged in para 6 of the claim statement is denied for want of knowledge. It is admitted to the extent that workman has raised a demand notice before Assistant Labour Commissioner, Chandigarh. It is admitted that answering management is still working in the same field. Rest of the averments of claim statement are denied being false, baseless and devoid of merits.

5. On notice, management No.2 appeared through authorised Representative Shri Arun Kumar on 03.11.2017. Management No.2 contested the claim statement by filing written statement dated 15.02.2018 (filed on 16.02.2018) wherein preliminary submissions are made to the effect that answering management is a proprietorship firm, owned and managed by Shri S. K. Oberoi and is filing reply through its authorised Representative Sh. Kuldeep Singh. The respondent (*here-in-after 'management'*) firm is into the business of providing the manpower to various companies and departments. The answering management firm was allotted with the work contract from management No.1 from the dated 01.11.2014 to 31.10.2015 and extended accordingly from time to time for providing various skilled / unskilled workers, cooks and other utility manpower. After getting the contract, the current deployed workers who were already working with management No.1 come at the pay roll and respectively the petitioner (*here-in-after 'workman'*) who was working as Cook was also come at the answering management's pay roll. The attendance of the workman was managed by the management No.1 along with day to day working and approval of their leaves accordingly. The answering management has duly complied with the provisions under the various laws and has paid it's outstanding dues to the worker / petitioner accordingly. As per their records, the workman was already working with the management

No.1 as a Cook and accordingly, it's date of joining with management was 01.11.2014. The answering management has been informed through management No.1 that workman has resigned from it's job as Cook w.e.f. 31.07.2017. Accordingly, arrears were paid to him in his bank account. The workman was duly paid with his dues such as salary, arrears, bonus and other outstanding dues for the period of his working. Workman never approached the management No.2 nor was such issue of his removal informed by management No.1. The answering management has neither control nor interference with the day to day affairs of working between the worker and management No.1. The issue of appointment & removal of the workman directly comes under the purview of management No.1, because management No.1 appoints the worker of it's choice or they have been already appointed in the previous years. The management No.2 has no such power to appoint or remove any person in the department, till it gets the approval of management No.1. In the light of above said, the answering management submits that the allegation and grievance raised by the workman does not stand against the management No.2. Therefore, the claim of the workman to be denied. The management No.2 could not be held liable for any violation of Section 25F, 25G & 25H of the ID Act.

6. Further in para wise reply it is admitted to the extent that workman was working as a Cook with the management No.1 prior, however, the management No.2 is not aware about the date of joining of the workman with management No.1. After the allotment of contract on 13.10.2014 to management No.2, the workman has come on the pay roll of the management No.2 from 01.11.2014 to 31.07.2017 and having PF No.556, ESI card No.1713271325. It is admitted that the work & conduct of the workman was satisfactory for the period from 01.11.2014 to 31.07.2017. The facts that services of the workman were terminated by management No.1 with verbal order dated 22.07.2016, that the juniors to the workman were retained in service and that no notice, notice pay, compensation was paid to the workman before termination of his services on 22.07.2016 and that the workman reported the matter to the Labour Inspector on 31.08.2016 and incident dated 12.06.2016, are denied for want of knowledge. It is further stated that answering management had never been informed about workman's removal nor it has power to remove any worker, who is working with the management No.1. Rest of the averments of the claim statement are denied being false, baseless and devoid of merits. Prayer is made that the claim may be denied qua the management No.2 or to pass such other orders or directions which this Court deem fit in the light of the facts & circumstances of the case.

7. The workman filed separate rejoinder dated 08.05.2018 to the written statement of management No.1 & 2, wherein the contents of respective written statement except admitted facts are denied as wrong, incorrect and vexatious and the averments of the claim statement are reiterated.

8. From the pleadings of the parties, following issues were framed vide order dated 08.05.2018 :-

1. Whether the services of the workman were terminated illegally by the management, if so, to what effect and to what relief he is entitled to, if any ? OPW
2. Whether there is no relationship of employer & employee in between management No.1 & workman ? OPM-1
3. Relief.

9. In evidence, the workman Vijay Kumar examined himself as AW1 and tendered his affidavit Exhibit 'AW1/A' along with documents Mark 'W1' to Mark 'W3'.

Mark 'W1' is copy of meal coupon (valid for 2 days) bearing Guest Copy No.94605 dated 05.03.2017, Room No.FD1/2 issued in the name of Guest Nand Kishore, by the Transit Lodge, A Unit of CITCO, ISBT, Sector 17, Chandigarh.

Mark 'W2' is the copy of demand notice dated Nil, issued by workman Vijay Kumar, addressed to CITCO, The Chef, Sector 17, Chandigarh and Oscar Security & Fire Service, Panipat.

Mark 'W3' is copy of complaint dated 31.08.2016 addressed from workman Vijay Kumar to the Labour Inspector, Labour Department, Sector 30-B, Chandigarh.

10. The workman examined AW2 Habil Minj, R/o H.No.1470, Sector 45, Chandigarh, who tendered his affidavit Exhibit 'AW2/A'. On 25.02.2022 workman closed his evidence.

11. At the stage of management's evidence, the management No.2 was proceeded against ex-parte due to non-appearance vide order dated 25.02.2022. Management No.1 examined MW1 Anil Sharma - Manager (Commercial), who tendered his affidavit Exhibit 'MW1/A' along with documents Exhibit 'M1/1' to Exhibit 'M1/4'.

Exhibit 'M1/1' is original authority letter dated 06.04.2022 issued by the Managing Director, CITCO in favour of Anil Sharma - Manager (Commercial), Head Office, CITCO to lead evidence and give statement(s) in case titled as Vijay Kumar Versus CITCO & Another on behalf of CITCO in the Court of Presiding officer, Labour Court, Sector 18, Chandigarh.

Exhibit 'M1/2' is the copy of allotment of contract to M/s Oscar Security & Fire Services (Contractor) for providing of manpower (contract labour) through service provider in Hotels / units of CITCO for the year 2014-15.

Exhibit 'M1/3' is copy of relevant entry dated 19.07.2016 of visitor book wherein visitor Sandeep Kumar in the column of comments lodged complaint against the conduct of workman Vijay Kumar - Cook, Canteen Transit Lodge.

Exhibit 'M1/4' is the copy of application dated 26.07.2016, whereby the Incharge, The Chef - 17 sought replacement of workman Vijay Kumar in writing from M/s Oscar Security & Fire Service Pvt. Ltd.

12. Cross-examination of MW1 was partly recorded on 02.02.2023. His remaining cross-examination was deferred on the request of Learned Representative for the workman with direction to the witness / MW1 to produce the attendance record of the workman for the year 2004 till date, if the same is available in his office.

13. Management No.1 examined MW2 Narinder Kumar Kwatra, who tendered his affidavit Exhibit 'MW2/A' along with documents Exhibit 'M2/1' to Exhibit 'M2/3' and Mark 'X'.

Exhibit 'M2/1' is authority letter dated 10.03.2023.

Exhibit 'M2/2' is certified copy of contract dated 13.10.2014 between managements No.1 & 2.

Exhibit 'M2/3' is photocopy of remarks dated 19.07.2014 in the Visitors Registers recorded by Sandeep Kumar, Guest of Transit Lodge, Bed No.D-4, Sector 17, Chandigarh.

Mark 'X' is photocopy of letter dated 26.07.2016 written by Incharge, The Chef, Sector 17 to management No.2.

14. Cross-examination of MW2 was deferred on the request of Learned Representative for the workman for non-supply of advance copy of affidavit. Thereafter despite availing repeated opportunities, including last opportunity the management No.1 failed to produce MW1 for his remaining cross-examination and MW2 for his cross-examination. Thus, evidence of management No.1 was closed by order vide order dated 03.01.2015.

15. I have heard the arguments of Learned Representatives for the parties and perused the judicial file. My issue-wise finding are as below :-

Issues No. 1 & 2 :

16. Both these issues are taken up together being inter-connected and in order to avoid repetition of discussion.

17. Onus to prove this issue No.1 is on the workman and onus to prove issue No.2 is on the management No.1.

18. To support the claim Learned representative for the workman referred the testimony of AW1 Vijay Kumar, who vide his affidavit Exhibit 'AW1/A' deposed the averments of claim statement in toto, which are not reproduced here for sake of brevity. For corroboration Learned Representative for the workman referred the testimony of AW2 Habil Minj, who vide his affidavit Exhibit 'AW2/A' deposed that Vijay Kumar (workman) has joined in the CITCO as a Housekeeping and were getting ₹ 6,500/- per month since 2006. The work & conduct of the Vijay Kumar (workman) was satisfactory and good from the date of joining. Vijay was appointed as Cook in the year 2004 by the Management No.1 and they had put his services under Management No.2 just to shield their skin from the labour laws applicable to the workers and the last wages of the deponent is ₹ 10,000/- per month and his PF No. 556. ESI Card No.1713271325 was also issued to the workman by the management. Management No.1 has terminated the services of the workman by verbal order w.e.f. 22.07.2016 and they have closed the gate for workman to join his duty. Thus, the workman has completed more than 240 days services and his services were illegally terminated on 22.07.2016 by the management No.1 by verbal order. AW2 further deposed that junior to the workman were retained in service, thus the provisions of Industrial Dispute Act have been violated. Even new person was appointed by the management No.1 in place of the workman. No notice or notice pay / compensation has been paid to the workman before illegal terminating the service of the deponent on 22.07. 2016. The workman also reported the matter to the labour department on 31.08.2016 and the Labour Inspector advised the workman to serve demand notice to the management. On 12.06.2016 workman was on his duty and at about 10:40 P.M. a guest came at the Transit Lodge CITCO who was staying at Lodge No.4 he was under the influence of liquor and came to the workman and handed over the coupon for food. The workmen requested him to come early before 10:00 P.M. as the timing is 8:00 A.M. to 10:00 P.M. The said guest taken his food and left and thereafter lodged a false complaint against the workman. On 19.07.2016, the said guest again come to bring food in drunken condition and the workman asked him that what wrong he said on 12.06.2016 to him on this the said guest become aggressor and started abusing the workmen and threatened him that he will put the workman out from his services as he is having high links is Management as well as Police. No inquiry has been conducted before terminating the services of the deponent, hence the action of the management of illegal. The management has retained junior workmen to the workman and thus has violated the provisions of Section-25G, 25H and 25F of ID Act. The services of the workmen has been terminated illegally without following the law and hence the workman is entitled for along with all other benefits reinstatement services

19. On the other hand, testimony of MW1 and MW2 being incomplete cannot be considered.

20. Learned Representative for the workman argued that the workman was appointed as Cook in the year 2004 by management No.1 and in order to shield it's skin from the Labour Laws applicable to the worker, the services of the workman are put under contractor - management No.2 w.e.f. 01.11.2014 and a camouflage. Therefore, the workman is entitled to be treated as direct employee of CITCO - management No.1.

21. On the other hand, Learned Representative for the management No.1 argued that there is no relationship of employer-employee between the management No.1 and the workman as since October 2014 the workman has been engaged through a contractor. The management No.1 had no administrative, economic and disciplinary control over the workman at any point of time. The management No.1 did not terminate the service of the workman but on the basis of complaint received from a visitor, the management No.1 sought replacement of the workman from its contractor i.e. management No.2 by writing a letter Exhibit 'MW1/4'.

22. The burden of proof lies on the workman to establish and prove the fact that he as contract labour had become the regular employee of the principal employer in course of time and that his engagement / employment through a contractor is a sham contract and mere camouflage. These are question of fact which

has to be established by the contract labour on the basis of requisite materials and evidence. It is necessary to advert to the evidence adduced and produced by the workman which correspond the relevant pleadings. Workman's witness AW2 when put to cross-examination by management No.1 stated that he is illiterate. He does not know what is written in his affidavit Exhibit 'AW2/A'. AW2 admitted as correct that Exhibit 'AW2/A' bears his signatures. AW2 admitted as correct that he appeared in the Court as on the asking of Vijay Kumar. Presently he is working with Hotel Western Court, Sector 43, Chandigarh as Sweeper. AW2 admitted as correct that he never seen any appointment letter issued by respondent No.1 to Vijay Kumar. AW2 admitted as correct that Vijay Kumar is working with him in M/s Oscar Security & Fire Services, Panipat. AW2 admitted as correct that he worked with Oscar Security up to 2018. AW2 voluntarily stated that he has worked with CITCO and management No.1 has issued appointment letter to him and he can produce the same on the next date of hearing. Remaining cross-examination of AW2 was deferred for want of record. AW2 in his remaining cross-examination recorded on 13.03.2020 stated that he has not brought the appointment letter issued by management No.1 i.e. CITCO as he misplaced the same. AW2 denied the suggestion as wrong that no appointment letter has been issued to him by management No.1. From the cross-examination of AW2 referred above, it is made out that both the workman and AW2 were deployed as outsource employee by the contractor M/s Oscar Security & Fire Services, Panipat (management No.2).

23. Vijay Kumar, the workman while examining himself as AW1 submitted his affidavit of statement in examination-in-chief and reiterated the averments made in the claim. When put to cross-examination by management No.1 AW1 / workman stated that he does not know what is written in his affidavit of evidence Exhibit 'AW1/A' and the same was prepared by his authorised Representative. He does not know where the evidence of the affidavit Exhibit 'AW1/A' is attested. AW1 admitted as correct that his salary was paid by management No.2 and the same was credited in his bank account by management No.2. AW1 admitted as correct that management No.2 had deducted the statutory deductions on account of ESIC contribution and provident fund contribution from his salary. From the cross-examination of AW1 referred above, it is made out that the contractor - management No.2 is the pay master of the workman - Vijay Kumar. The management No.1 has pleaded in the written statement in para 1 of preliminary objections and para 3 on merits, that workman was neither employed nor his services were terminated by the answering management. Management No.2 - contractor in para 2 of preliminary submissions pleaded that answering management was allotted the work contract to management No.1 from 01.11.2014 to 31.10.2015 and extended accordingly from time to time. In para 3 of preliminary submission, management No.2 further pleaded that after getting the contract, the current deployed worker, who were already working with management No.1 came at the pay roll of management No.2 and the workman who was working as a Cook also come to the pay roll of management No.2. In the present case, it is neither pleaded nor proved that workman ever complained about the payment of wages by the contractor - management No.2 since 01.11.2014 till alleged termination on 22.07.2017. It is undeniable fact that the management No.2 covered the workman under the EPF and ESI scheme. Thus, there is no material on record to assume that management No.1 has any direct control & supervision over the workman. Therefore, the contract allotted by the CITCO to contractor - management No.2 w.e.f. 01.11.2014 is genuine and cannot be called camouflage.

24. Literally a person who works as an employee of an establishment and is paid salary by it, rather than being employed through an agency is said to be the direct employee of establishment when the employment in which an employer has the authority to appointment and of termination, has direct day to day supervision of the work, pay the wages is said to have direct employee. The company or the establishment issue advertisement prescribing eligibility criteria for the appointment of suitable candidate in the vacancy, in already created and sanctioned posts, such recruited candidate and having been appointed is called the direct employer of the establishment. To the contrary the 'contract labour' refers to that employed person, hired to work in a company / establishment that a contractor for a specific job and definite time. These contract workers are not directly

recruited by the company / establishment but through a contractor. In respect of such contract labour, the company / establishment is addressed as the principal employee. Since the work done by the contract labour is of temporary nature, their employment is not fixed with a particular contractor. Once the contractor's agreement ceases with the principal employer, they have to lose their job.

25. The contention raised by Learned Representative for the workman to treat the workman as direct employee of management No.1 - CITCO carries no force, as it is neither pleaded nor proved that workman was selected and appointed by management No.1 - CITCO after completion of selection process before allotment of contract to management No.2 was 01.11.2014. There is no evidence that at present there is a valid contract between management No.1 & 2. Management No.2 on receipt of request for replacement of the workman, was bound to offer alternative job to the workman. But no such offer is given by the management No.2. It is neither pleaded nor proved that management No.2 had offered alternative job to the workman or that management No.2 had complied with the conditions laid down in Section 25F of the ID Act before termination of services of the workman. Thus, management No.2 is guilty of violation of Section 25F of the ID Act.

26. The contention raised by Learned Representative for the workman that at the time of termination, junior to the workman were retained in service and new appointment was made at his place, is devoid of merits because workman's own witness AW2 when put to cross-examination by management No.1 stated that S/Shri Nikhal and Ram Chander were appointed in place of work. He has not seen any appointment letter of Sh. Ram Chander and Sh. Nikhal. He does not know the provisions of the ID Act. Thus, affidavit Exhibit 'AW2/A' was prepared by the Representative of the workman.

27. In view of the discussion made above, keeping in view last drawn monthly wages of the workman i.e. ₹ 10,000/- per month and length of service from 2004 to 2017, the workman is held entitled to lump sump compensation of ₹ 75,000/- to be paid by management No.2.

28. Accordingly, this issue No.1 is decided in favour of the workman and against the management No.2. Issue No.2 is decided in favour of the management No.1 and against management the workman.

Relief :

29. In the view of foregoing finding on the issue No.1 above, this industrial dispute is allowed to the effect that the workman is entitled to compensation of ₹ 75,000/- to be paid by management No.2. Management No.2 is directed to comply with the Award within three months from the date of publication of the same in Government Gazette failing which the management shall be liable to pay interest at the rate 8% per annum on the abovesaid amount from the date of this Award till its actual realisation. Appropriate Government be informed. Copy of this Award be also sent to Learned District Judge, Chandigarh in view of Sub-section 10 of Section 11 of the Industrial Disputes (Amendment) Act, 2010 for onward transmission of the same to concerned Civil Court. File be consigned to the record room.

(Sd.) . . .,

(JAGDEEP KAUR VIRK)

PRESIDING OFFICER,

Industrial Tribunal & Labour Court,

Union Territory, Chandigarh.

UID No. PB0152

Dated : 08.01.2025.

CHANDIGARH ADMINISTRATION
LABOUR DEPARTMENT

Notification

The 11th February, 2025

No. 494594-HII(2)-2024/2358.—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL) dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. **21/2023** dated **08.01.2025** delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

HARMANJIT SINGH S/O SH. KARAM SINGH R/O VILLAGE SAIDPURA, P.O. LANDARAN,
TEHSIL & DISTRICT S.A.S. NAGAR. (WORKMAN)

AND

1. CHANDIGARH JUDICIAL ACADEMY, SECTOR 43, CHANDIGARH THROUGH ITS DIRECTOR.
2. CHECKMATE SERVIDES PVT. LTD., BRANCH OFFICE SCF 128, PHASE 3B2, S.A.S. NAGAR, MOHALI

2ND ADDRESS:-

M/S CHECKMATE SERVICE PVT. LTD., AMAN TOWERS, GF, 6,7,8,9, SUVAS COLONY,
FATEHGUNJ, MAIN ROAD VADODRA (GUJRAT). (MANAGEMENT)

AWARD

1. Harmanjit Singh, workman has presented industrial dispute under Section 2A(2) of the Industrial Disputes Act, 1947 (*here-in-after in short called 'ID Act'*).

2. Briefly stated the averments of claim statement are that the applicant-workman (*here-in-after 'workman'*) has been working as Security Guard since 01.01.2017 continuously and was in receipt of wages of ₹18,000/- per month. On 24.12.2021, the respondent (*here-in-after 'management'*) through message called the workman in his office and told him to sign the resignation without any sufficient reason. The workman flatly refused to sign the resignation letter. On 24.12.2022, the management did not allow the workman to join his services. The management company terminated the services of the workman without any show cause notice and intimated that his services are no longer required. The workman again requested the management for reporting on duty but the management illegally and forcibly stopped the entry of workman and thus illegally & arbitrarily terminated the services of the workman w.e.f. 24.12.2021. The workman again approached the management for reporting for duty but the management intimated the workman that his services have already been terminated by the management and the workman was not allowed to report for his duty. During entire tenure of service, the work & performance of the workman has been to the satisfaction of his superior / seniors. The workman performed his duties with dedication. The post on which workman was working is permanent / regular. The workman has worked more than 240 days continuously with the management without any break. The management has indulged in unfair labour practice. The workman has been forced to remain unemployed and is continuing to be out of employment due to high-headedness of management-employer. The management has retained the juniors and new appointment has been made against the post on which the workman was working. The act of the management in terminating the services of the workman is prima facie, illegal, arbitrary and unjustified. As such, it amounts to illegal termination. Prayer is made that direction may be issued to the opposite party to reinstate the workman with continuity of service along with full back wages and all consequential benefits on the same post and the same terms and conditions with seniority.

3. On notice, management No.1 (Chandigarh Judicial Academy) contested the claim statement by filing written statement on 14.11.2023, wherein preliminary objections are raised to the effect that vide contract dated 28.02.2022 M/s Checkmate Service Private Limited, North-West Regional Office at SCR 128, Phase 3B2, SAS Nagar (*here-in 'management No.2'*) entered into contract with Chandigarh Judicial Academy (*here-in 'management No.1'*) for providing security services in the Academy. The workman was deputed to work as a Security Guard in the Academy w.e.f. 12.05.2017 to 23.12.2021 by the contractor management No.2. The workman was neither the employee nor deputed by the management No.1 during the aforesaid period. Even the attendance of the workman was marked by the Security Supervisor of management No.2. Besides, grant of leave and payment of salary was made by the service provider. Further clause 18 of the agreement dated 28.02.2022 provides that it shall be the sole responsibility and liability of M/s Checkmate Service Private Limited. Management No.2 to defend any action or infringement of any statutory provision or to bear the cost of defending such actions. This show that Chandigarh Judicial Academy - management No.1 has wrongly been impleaded as management. Therefore, the Chandigarh Judicial Academy - management No.1 is liable to be deleted from the array of parties.

4. Further in para wise reply, it is admitted to the extent that workman was working as Security Guard in Chandigarh Judicial Academy. It is stated that workman was working under the supervision & control of M/s Checkmate Security Services Pvt. Ltd. - management No.2. It is denied as wrong that the workman was working at Chandigarh Judicial Academy w.e.f. 01.01.2017. It is stated that the workman was deputed in the Chandigarh Judicial Academy - management No.1 by the management No.2 w.e.f. 12.05.2017 to 23.12.2021. Rest of the averments of the claim statement are denied for want of knowledge being not relating to the answering management No.1. Prayer is made that name of answering management No.1 may be deleted from the array of parties and claim statement may be dismissed with cost.

5. M/s Checkmate Services Private Limited - management No.2 contested the claim statement by filing separate written statement dated 29.05.2023 (filed on 30.05.2023) wherein it is admitted that workman has been working as Security Guard and was in the receipt of wages of ₹ 18,000/- per month. It is stated that workman joined on 01.05.2017. It is stated that services of the workman are not terminated. From 24.12.2021, the workman is absenting from duty, on one excuse or other and not complying to the company's instructions. The workman is himself away from duty and not receiving or acting upon the instructions of the company, therefore, cannot claim that he is idle. Earlier workman was doing job @ ₹ 18,000/- for 8 hours and cannot be allowed to join the same service, as the management No.2 is into security services and cannot put their client to security or safety risk as the workman had stopped coming to perform his duty on immediate basis another person had to be put on job. As request putforth by the workman to join the same service may be considered as and when the said position is vacant and their client approves the same. The management-company had not ended the services of the workman and offered him services at other location with transfer order which the workman is denying to accept. In his rejoinder workman is claiming that no communication has been received by him. It is further stated that workman had refused to accept the movement order dated 23.12.2021, thus, the same was put on the notice board and registered post sent to the workman was denied by him and same was returned and received back with the Mohali Office of management No.2 on 01.01.2022 with the postal endorsement of 'refusal'. It is wrong to say that "*No written Communication was ever sent to the workmen by the Management.*" and also stating workman never absented himself from the job is a false claim. Prayer is made to settle the case merits and suitable action may be taken by the Authorities in this regard.

6. Replication not filed. From the pleadings of the parties, following issues were framed vide order dated 12.12.2023 :-

1. Whether the termination of the services of workman is illegal, if so, to what effect and what relief he is entitled to ? OPW

2. Whether the claim statement is bad for mis-joinder of party ? OPM (management No.1)
3. Whether there is no relationship of employer & employee between the management No.1 and workman ? OPM (management No.1)
4. Relief.

7. In evidence, the workman Harmanjit Singh examined himself as AW1 and tendered his affidavit Exhibit 'AW1/A'. On 01.07.2024 Learned Representative for the workman closed evidence in affirmative.

8. On the other hand, management No.1 examined MW1 Hardev Singh - Office Executive, Chandigarh Judicial Academy, who tendered his affidavit Exhibit 'MW1/A' along with copies of documents Exhibit 'MW1/1' and Exhibit 'MW1/2'.

Exhibit 'MW1/1' is copy of agreement dated 12.03.2024 between Chandigarh Judicial Academy and M/s Innovision Limited.

Exhibit 'MW1/2' is copy of agreement dated 28.02.2024 between Chandigarh Judicial Academy and M/s Checkmate Services Limited.

9. On 19.09.2024 Learned Representative for the management No.1 (PA-cum-Presenting Officer) closed evidence.

10. Management No.2 examined MW2 Balinderpal Singh - Deputy General Manager (HR) of M/s Checkmate Services Private Limited, Mohali, who tendered his affidavit Exhibit 'MW2/A' along with copies of documents Exhibit 'MW2/1' to Exhibit 'MW2/4' and Mark 'MX'.

Exhibit 'MW2/1' is copy of board resolution dated 27.10.2020 in favour Balinderpal Singh.

Exhibit 'MW2/2' is copy of movement order dated 23.12.2021 sent by Checkmate Services Pvt. Ltd. to Harmanjit Singh through registered post.

Exhibit 'MW2/3' is copy of postal receipt dated 30.12.2021.

Exhibit 'MW2/4' is original envelop of registered post with remarks 'refusal to accept'.

Exhibit 'MW2/5' is copy of resignation letter dated 23.12.2021 of Harmanjit Singh sent to Director, Checkmate Services Pvt. Ltd, Chandigarh - Mohali.

Mark 'MX' is copy of agreement dated 01.03.2021 between Chandigarh Judicial Academy and M/s Checkmate Services Pvt. Ltd. for the period 01.03.2021 to 28.02.2022.

11. It is pertinent to mention here that during cross-examination of workman / AW1 management No.2 put documents Exhibit 'M1' to Exhibit 'M5'.

Exhibit 'M1' is copy of resume of workman Harmanjit Singh.

Exhibit 'M2' is copy of character certificate dated 04.05.2017 relating to workman Harmanjit Singh issued by Sarpanch, Gram Panchayat, Village Saidpur, Tehsil & District S.A.S. Nagar Mohali, Punjab.

Exhibit 'M3' is application for employment submitted by workman Harmanjit Singh.

Exhibit 'M4' is copy of medical fitness certificate dated 11.05.2017 of workman Harmanjit Singh issued by Dr. Kapoor's Clinic, SCF No.70 (F.F.), Phase 3B-2, Mohali.

12. On 20.11.2024, Shri Balinderpal Singh - Deputy General Manager (HR) closed oral evidence on behalf of management No.2. On 06.01.2025 Learned Representative for management No.2 closed documentary evidence.

13. I have heard the arguments of Learned Representatives for the parties and perused the judicial file. My issue-wise finding are as below :-

Issues No. 1 to 3 :

14. All these issues are taken up together being inter-connected and in order to avoid repetition of discussion.

15. Onus to prove issue No.1 is on the workman and onus to prove issue No.2 & 3 is on the management No.1.

16. In order to prove the claim, Learned Representative for the workman referred the testimony of AW1/workman Harmanjit Singh who vide his affidavit Exhibit 'AW1/A' deposed the averments of claim statement in toto, which are not reproduced here for sake of brevity.

17. To discharge the onus of issues No.2 & 3, Learned Representative for the management No.1 referred the testimony of MW1 Hardev Singh, who vide his affidavit Exhibit 'MW1/A' deposed that he is working as Office Executive in the Chandigarh Judicial Academy and looking after the Protocol Work, maintenance works and supervision of works/duties rendered by Housekeeping & security staff etc. Earlier M/s Checkmate Services Private Limited, North West Regional Office at SCR 128, Phase 3B2, S.A.S Nagar / respondent No.2 (*here-in 'management No.2'*) was providing Security Services in the academy from February, 2010 to 15.03.2024 (extended yearly) and now M/s Innovision Limited is providing Security Services in the Academy w.e.f. 16.03.2024 to till date. MW1 further deposed that Sh. Harmanjit Singh / applicant (*here-in 'workman'*) was deputed to work as Security Guard in the Chandigarh Judicial Academy w.e.f. 16.05.2017 to 23.12.2021 by management No.2. The workman was not the employee of the Chandigarh Judicial Academy. Even the attendance of workman was marked by the Security Supervisors of management No.2 and grant of leave and payment of salary was also made by the management No.2. Chandigarh Judicial Academy has not ever terminated the services of workman Harmanjit Singh. Rather, it is the duty and responsibility of management No.2 to provide 03 Nos. Security Supervisors and 18 Nos. of Security Guards to the respondent No.1 (*here-in 'management No.1'*) as per security services agreement executed between management No.1 & 2 respectively. MW1 further deposed that Clause 18 of the security services agreement dated 28.02.2022 provides that it shall be sole responsibility and liability of M/s Checkmate Services Pvt. Ltd. / management No.2 to defend any action or infringement of any statutory provision and to bear the cost of defending. MW1 supported his oral version with documents Exhibit 'MW1/1' and Exhibit 'MW1/2'.

18. To controvert the workman's claim, Learned Representative for management No.2 referred the testimony of MW1 Balinderpal Singh, who vide his affidavit Exhibit 'MW2/A' deposed the entire contents of the written statement, which are not reproduced here to avoid repetition. MW2 supported his oral version with documents Exhibit MW2/1' to Exhibit 'MW2/5' and Mark 'MX'.

19. From the oral as well as documentary evidence led by the parties, it comes out that the workman in the claim statement and his affidavit Exhibit 'AW1/A' alleged that he has been working as Security Guard continuously since 01.01.2017 and was in receipt of monthly wages of ₹18,000/-. It is further alleged that on 24.12.2021 the management telephonically informed him to sign resignation without any sufficient reasons, to which he refused. Thereafter, on 24.12.2022 the management did not allow him to join duty and intimated that his services are no longer required. In the present case, the workman has impleaded Chandigarh Judicial Academy as management No.1 and M/s Checkmate Service Private Limited as management No.2. But in the present entire claim statement and affidavit Exhibit 'AW1/A', the workman has not specifically mentioned whether he was appointed by management No.1 or management No.2, whether his services were

verbally terminated by management No.1 or management No.2. Thus, the pleadings are vague. However, from the pleadings of written filed by management No.1 & 2 accompanied with the cross-examination of AW1 and evidence led by management No.1 & 2, the inference can be drawn as to who is the actual employer of the workman and who out of management No.1 & 2 had control over the employment of the workman. Management No.1 in the written statement and MW1 Hardev Singh in his affidavit Exhibit 'MW1/A' denied the relationship of employer-employer between the management No.1 & workman. On the other hand, management No.2 in its written statement admitted that the workman was appointed by contractor - M/s Checkmate Services Private Limited and was deployed as an outsource employee with the management No.1 - Chandigarh Judicial Academy as a Security Guard. Management No.2 alleged that workman remained in its service for the period w.e.f. 01.05.2017 to 23.12.2021 and workman absented from duty w.e.f. 24.12.2021. AW1 when put to cross-examination by management No.2 stated that he has seen his original resume as Security Guard. He identifies his signatures in the column of signature of individual against dated 11.05.2017, copy of the same is Exhibit 'M1'. AW1 admitted as correct that he had submitted his character certificate issued on 04.05.2017 by Sarpanch, Gram Panchayat, Village Saidpur, District Mohali, with his seal and signature and copy of the same is Exhibit 'M2'. AW1 further stated that he identify his signature as original application for employment dated 11.05.2017 and copy of the same is Exhibit 'M3'. AW1 further stated that he has seen his original medical fitness certificate dated 11.05.2017 issued by Dr. Kapoor, Phase 3B2, Mohali and copy of the same is Exhibit 'M4'.

20. From documents Exhibit 'M1' to Exhibit 'M4', it is duly established that workman was deployed as an outsource employee by contractor - management No.2 with Chandigarh Judicial Academy - management No.1 from the month of May, 2017. All the necessary formalities of joining are fulfilled by the workman in May, 2017 i.e. resume Exhibit 'M1', application for employment / Exhibit 'M3', medical fitness certificate / Exhibit 'M4'. AW1 when put to cross-examination by management No.1 stated that he had applied for the post of Security Guard directly in the office of Checkmate Services i.e. management No.2. His leave record, attendance record and wage record was maintained by management No.2. He was paid salary by management No.2 / Checkmate Security - contractor and his PF was also deducted from salary by the said contractor. AW1 in his cross-examination further admitted as correct that his services were not terminated by the Chandigarh Judicial Academy. He was not issued any letter of termination of services by the Chandigarh Judicial Academy. He had performed his duty as a Security Guard with M/s Checkmate Services w.e.f. 01.05.2017 to 23.12.2021. Besides, MW2 Balinder Singh, when put to cross-examination by management No.1 admitted as correct that Chandigarh Judicial Academy has allotted contract of providing service to M/s Checkmate Security Services Pvt. Ltd. for the period w.e.f. February, 2010 for one year which was further extended from time to time up to 15.03.2024. MW2 admitted as correct that workman was issued initial appointment letter by M/s Checkmate Security Services Pvt. Ltd. MW2 further stated that during the service period of the workman with M/s Checkmate Security Services Pvt. Ltd., the record of attendance, leave and wages relating to the workman was maintained by M/s Checkmate Security Services Private Limited. From the version of AW1 and MW2 referred above, it is duly proved into evidence that there was no direct relationship of employer & employee between the management No.1 & the workman and the management No.2 - contractor is the employer of the workman. The contractor - management No.2 had direct control and supervision on the employment of the workman. The workman was deployed by the contractor - management No.2 as an outsource employer in Chandigarh Judicial Academy - management No.1, thus, management No.1 is a necessary party being principal employer.

21. As far as termination of services of the workman is concerned, the contention raised by Learned Representative for management No.1 that its service contract with management No.2 ended by efflux of time stand proved from cross-examination of MW2 conducted by management No.1, wherein MW2 admitted as

correct that Chandigarh Judicial Academy has allotted contract of providing service to M/s Checkmate Security Services Pvt. Ltd. for the period w.e.f. February, 2010 for one year which was further extended from time to time up to 15.03.2024. The contract of Chandigarh Judicial Academy with M/s Checkmate Security Services Pvt. Ltd. ended by efflux of time on 15.03.2024. MW2 admitted as correct that thereafter Chandigarh Judicial Academy allotted further contract to M/s Innovision Ltd. w.e.f. 16.03.2024. The fact that further contract w.e.f. 16.03.2024 was allotted by Chandigarh Judicial Academy to contractor M/s Innovision Ltd., stands proved from agreement dated 12.03.2024 between Chandigarh Judicial Academy and M/s Innovision Ltd. / Exhibit 'MW1/1' which commences from 16.03.2024 up to 15.03.2025.

22. Learned Representative for the workman argued that the contractor terminated the services of the workman by verbal order w.e.f. 24.12.2021 without any reason and without compliance of mandate of Section 25F of the ID Act although the workman has completed continuous service of 240 days in 12 calendar months preceding termination. Thus, termination of services of the workman is illegal and workman is entitled for reinstatement with full back wages along with continuity of service and consequential benefits.

23. On the other hand, Learned Representative for the management No.2 argued that in fact workman started absenting w.e.f. 24.12.2021 because after expiry of period of last contract with the management No.1, the management No.2 had issued movement order dated 23.12.2021 to the workman, to which the workman refused to accept. Then, the movement notice was displayed on the notice board and simultaneously it was issued to the workman through registered post and the same was received back undelivered as workman refused to receive the registered post.

24. To controvert the arguments of management No.2, Learned Representative for the workman argued that the movement order dated 23.12.2021 is ante-dated. The same was issued through registered post vide postal receipt dated 30.12.2021. In case the movement order was prepared on 23.12.2021, then why the same was kept pending till 30.12.2021.

25. To my opinion, the workman's argument that movement order dated 23.12.2021 being posted through registered post / Exhibit 'MW2/4' on 30.12.2021, is ante-dated is devoid of merits. The movement order dated 23.12.2021 was dispatched within a week. The movement order dated 23.12.2021 is proved to be served to the workman on 01.01.2022 though the workman refused to receive the same. The registered post / Exhibit 'MW2/4' bear postal endorsement dated 01.01.2022 "Refusal to accept". It would prove that workman deliberately avoided to receive the movement order and remained absent from duty. The facts & circumstances above would suggest that the workman has no intention to resume the duty at Ahmedabad, where he was transferred. There is no evidence of the workman showing that transfer was not genuine or it involves significant change in employment terms that are detrimental to him. Besides, the transfer is an ordinary and usual incident of service. Transfer are part & parcel of employment. As per Clause 15 of application for employment / Exhibit 'M3', the job of the workman was transferable. The translated version from Hindi to English language of Clause 15 of Exhibit 'M3' is as below :-

"15. You may transfer me at any place in India."

26. The argument advanced by Learned Representative for management No.2 that workman resigned from service carries force as the management No.2 has proved into evidence copy of letter dated 23.12.2021 / Exhibit 'MW2/5' addressed from workman to Director, Checkmate Services Private Limited, Mohali, wherein the workman submitted that he (Harmanjit Singh) S/o Karam Singh is performing duty with their agency w.e.f. 01.05.2019. Now due to sudden change of household circumstances, it has become impossible. Thus, he requested to settle his accounts. To my opinion, the contents of Exhibit 'MW2/5' would led to the inference that workman had issued letter dated 23.12.2021 / Exhibit 'MW2/5' to the contractor -

management No.2 expressing his willingness not to continue with the service any more and seeking to settle his final accounts. MW2 when put to cross-examination by the workman stated that he has gone through the contents of Exhibit 'MW2/5' wherein the workman had made request to settle his account from which it is inferred that the workman has tendered resignation.

27. In view of the above clause 15 of application for employment / Exhibit 'M3' which is admittedly signed by the workman, from the initial date of joining the workman was aware that his job is transferrable to any location within India.

28. In view of the discussion made above, it is duly proved on record that workman has willfully abandoned the job and refused to join at the transferred location.

29. Accordingly, issue No.1 is proved against the workman in favour of managements No.1 & 2. Issue No.2 is proved against the management No.1 and in favour of the workman. Issue No.3 is proved in favour of management No.1 and against the workman.

Relief :

30. In the view of foregoing finding on the issues No.1 & 3 above, this industrial dispute is declined. Appropriate Government be informed. File be consigned to the record room.

(Sd.) . . . ,

(JAGDEEP KAUR VIRK)

PRESIDING OFFICER,

Industrial Tribunal & Labour Court,

Union Territory, Chandigarh.

UID No. PB0152

Dated : 08.01.2025.

Secretary Labour,
Chandigarh Administration.

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